

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JESSE CLYDE BURLESON,

No. C 08-01853 SBA (PR)

Petitioner,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION,

**ORDER GRANTING IN FORMA
PAUPERIS STATUS; GRANTING
PETITIONER'S REQUEST FOR A
CERTIFICATE OF APPEALABILITY;
AND TERMINATING REMAINING
PENDING MOTIONS AS MOOT**

Respondent.

(Docket nos. 17, 20, 22)

Petitioner, a state prisoner, has filed a notice of appeal of this Court's judgment dismissing as time-barred his petition for a writ of habeas corpus under 28 U.S.C. § 2254. Petitioner also seeks a certificate of appealability (COA) pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b). He has also filed an application to proceed in forma pauperis (IFP) on appeal (docket no. 22).¹

Because reasonable jurists could disagree with this Court's conclusion that Petitioner's application is time-barred, Petitioner's request for a COA is GRANTED. See, e.g., Thomas v. Greiner, 174 F.3d 260, 261 (2d Cir. 1999) (district court may grant certificate of appealability under 28 U.S.C. § 2253(c) on whether habeas petition is time-barred).

For the foregoing reasons, the Court GRANTS Petitioner's request for a COA (docket no. 17). Petitioner's application to proceed IFP on appeal (docket no. 22) is GRANTED.

The Clerk of the Court shall forward to the Ninth Circuit Court of Appeals the case file with this Order. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997). All remaining pending


¹ Petitioner previously filed a motion for an extension of time to file his application to proceed IFP on appeal (docket no. 20). Because Petitioner has since filed his application to proceed IFP appeal (docket no. 17), his motion for an extension of time is DENIED as moot.

1 motions, including his motion for an extension of time to file his application to proceed IFP on
2 appeal (docket no. 20), are terminated as moot.

3 This Order terminates Docket nos. 17, 20 and 22.

4 IT IS SO ORDERED.

5 DATED: 3/2/10

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7 SAUNDRA BROWN ARMSTRONG
8 United States District Judge
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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 JESSE CLYDE BURLESON,

5
6 Plaintiff,

7 v.

8 DIRECTOR CA DEPT OF CORRECTIONS et
9 al,

10 Defendant.
11 _____/

Case Number: CV08-01853 SBA

CERTIFICATE OF SERVICE

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
13 Court, Northern District of California.

14 That on March 4, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said
15 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
16 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
17 located in the Clerk's office.
18

19 Jesse Clyde Burleson D-90284
20 Mule Creek State Prison
21 P.O. Box 409020
22 Ione, CA 95640

23 Dated: March 4, 2010

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk